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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,687	10/21/2005	Hiroshi Yoshida	042880	6611
38834 7590 01/22/2008 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036			EXAMINER AU, BACH	
			ART UNIT 2822	PAPER NUMBER
			MAIL DATE 01/22/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/516,687	Applicant(s) YOSHIDA ET AL.	
	Examiner Bac H. Au	Art Unit 2822	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-13 is/are pending in the application.
- 4a) Of the above claim(s) 6-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment dated November 8, 2007, in which claims 1-3 were amended, and claims 4-5 were cancelled, has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Awschalom (U.S. Pat. 6307241).

Regarding claims 1-2, Awschalom [Abstract lines 5-8; col.1 lines 36-59; col.4 line 57 – col.5 line 17] discloses a ferromagnetic semiconductor material, comprising:

a semiconductor selected from the group consisting of a group IV-based semiconductor, group III-V-based compound semiconductor, and group II-VI-based compound semiconductor;

at least one rare-earth metal element selected from the group consisting of Ce, Pr, Nd, Pm, Sm, Eu, Gd, Th, Dy, Ho, Er, Tm, Yb and Lu,

wherein said semiconductor and said rare-earth metal element form a mixed crystal so as to allow said semiconductor to have a ferromagnetic state maintaining transparency;

wherein said semiconductor material is doped with at least one of an n-type dopant and a p-type dopant [Col.6 lines 7-32; Awschalom discloses source and drain of a field effect transistor, which would inherently be doped with at least one of an n-type dopant and a p-type dopant].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Awschalom (U.S. Pat. 6307241) in view of Hobson (U.S. Pat. 5912498).

Regarding claim 3, Awschalom discloses wherein the semiconductor material comprises a group III-V-based compound semiconductor and Gd, but fails to disclose wherein the semiconductor material also comprises oxygen as a donor. However, Hobson discloses a ferromagnetic semiconductor material, wherein the semiconductor material comprises a group III-V-based compound semiconductor [Col.2 lines 10-31], Gd, and oxygen as a donor [Col.1 lines 48-53].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Hobson into the device of Awschalom to include wherein the semiconductor material comprises oxygen as a

donor. The ordinary artisan would have been motivated to modify Awschalom in the manner set forth above for at least the purpose of forming a high quality Ga—Gd-oxide layer [Hobson; col.2 lines 10-31].

Response to Arguments

4. Applicant's arguments filed November 8, 2007 have been fully considered but they are not persuasive. Applicant asserts that Awschalom does not teach or suggest "wherein said semiconductor and said rare-earth metal element form a mixed crystal so as to allow said semiconductor material to have a ferromagnetic state maintaining transparency", since the mixed crystal of the present invention is different from the semiconductor material including precipitates of ferromagnetic material as shown in Awschalom. This assertion is not persuasive. The scope of the claim is not so limiting, where "mixed crystal" is only interpreted as described by Applicant. As reasonably interpreted, Awschalom clearly discloses wherein the semiconductor and rare-earth metal element form a mixed crystal. Awschalom [Abstract lines 5-8] discloses the semiconductor's intrinsic properties, including optical properties, are retained after incorporation of the metal element. Since the materials of Awschalom are the same as that of the claimed invention, it would appear inherent that the ferromagnetic semiconductor material of Awschalom is transparent, and that its transparency is maintained, as discussed above.

Overall, the arguments are not persuasive. The claims stand rejected, and the Action is made Final.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bac H. Au whose telephone number is 571-272-8795. The examiner can normally be reached on Mon-Fri 8-5.

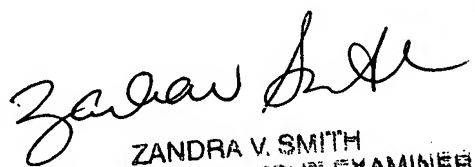
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zandra Smith can be reached on 571-272-2429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BHA


ZANDRA V. SMITH
SUPERVISORY PATENT EXAMINER
16 Jan 2008